

Arkansas
Post Prison Transfer Board
Policy Manual

Proposed Copy
As Of: April 7, 2005

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Post-Prison Transfer Board Manual Contents

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Post Prison Transfer Board Manual

Modified on 4/7/05

BOARD MEMBERSHIP AND RESPONSIBILITIES

The Arkansas Post Prison Transfer Board (Board) is composed of one part time and six full time members appointed by the Governor and confirmed by the Senate. Each member is appointed for a term of seven years, except that the terms shall be staggered by the Governor so that the term of one member expires each year. If a vacancy should occur on the Board prior to the expiration of a term, the Governor shall fill the vacancy for the remainder of the unexpired term, subject to confirmation by the Senate at its next regular session. The Governor may remove a Board member for good cause as prescribed by law. If the Senate is not in session, confirmation of the removal will be by written petition of a majority of the senators. For those persons eligible for parole, the Board has statutory authority to determine what persons will be placed on parole and to set the time and conditions of the parole. The Board will conduct open meetings and make public its findings for each eligible candidate for parole. However, inmate/resident interviews may be closed to the public.

The Board is also responsible for reviewing all pardon and executive clemency applications and making non-binding recommendations to the Governor.

Board staff, to include hearing examiners, is responsible for carrying out the Board's mission and complying with applicable law and Board policies.

Board members must not seek or hold public office which would represent a conflict of interest while on the Board.

Composition of the Board members should meet the following standards:

1. The racial makeup should be representative of the diversity of the significant population under the jurisdiction of the Board
2. At least 2/3rd of Board members must have at least 3 years experience in a criminal justice or juvenile justice, or equivalent experience in a relevant profession.
3. At least 2/3rd of Board members have at least a baccalaureate degree or have completed a career development program that includes work related experience, training, or college credits providing a level of achievement equivalent to a bachelor's degree.

If the composition of Board members does not meet these standards, the Chairperson must bring this to the Governor's attention during the selection process for a new Board member with a request to rectify this with subsequent appointments. The Chairperson may also facilitate training to bring Board members up to standard.

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The Governor shall appoint the Chairperson of the Board. The Board shall elect, during the month of February, a Vice Chairperson and a Secretary to serve as officers for the upcoming year. Officers shall be elected by a majority of members present and voting. If an office becomes vacant in the interim, the Board shall elect, at its next regular meeting, a member to serve in that office until the next election. A special election of officers may be called at any time at the request of a majority of the members.

Quorum and General Voting Information

A quorum of four members is required to vote on each parole release case. Board practice is to have 7 members vote on executive clemency death sentence cases and a minimum of four votes on other clemency requests. A member who recuses is not eligible to vote and shall not be counted in determining whether there is a quorum. It is sufficient that a motion, decision, or proposition receives a majority of the votes actually cast. Each Full-time Board member has the right to vote on each consideration presented. The part-time Board member may vote when designated by the Chairperson to fill an assignment as defined under duties of the Chairperson; additionally, the part-time Board member may vote on requests for clemency to include pardon when designated to participate by the Board Chairperson.

Recusal

No member of the Board or hearing examiner should participate in the determination of any matter before them:

1. if they are closely related to the person, the person's attorney, or the victim; or
2. if they have had a personal or business relationship with the person, the person's family, the person's attorney, the victim, or the victim's family which would affect or reasonably give the appearance of affecting judgment in the matter; or
3. if they have served as counsel for either party in legal proceedings concerning the person; or
4. if they have any other interest in the proceeding that would affect or reasonably give the appearance of affecting their judgment in the matter.

The responsibility for determining the appropriateness of recusal under the guidelines established by this policy shall be solely upon that member or hearing examiner.

In establishing these guidelines for recusal, it is not the intent of the Board to create a right or basis to challenge the actions of this Board, any member of the Board or hearing examiner, which is not otherwise provided by the laws or Constitution of this State or the United States. In the event a Board member or hearing examiner abstains or recuses from a vote for parole, transfer, pardon or clemency, this action is final and cannot be changed.

PROPOSED COPY AS OF: April 7, 2005 PPTB MANUAL CONSIDERATION OF INMATES ELIGIBLE FOR PAROLE

General Information.

“Parole” is the release of an inmate into the community prior to the expiration of the sentence, subject to conditions imposed by the Board and to supervision. Supervision is accomplished on behalf of the Board by Parole/Probation Officers, also referred to as “supervision officers,” who work for the Arkansas Department of Community Correction (DCC).

Depending on the date of a crime or sentence, some inmates are “transfer eligible,” some are “parole eligible,” and some inmates are not eligible for parole, but may be considered for release under clemency laws.

The DCC Institutional Release Services staff will prepare case records for use by Board members in conducting case reviews and hearings, as required by Arkansas Code Annotated §16-93-203. Board staff will manage these case records to ensure timely review/hearings.

“Inmates with Transfer Eligible “TE” Dates.”

Arkansas Code Annotated § 16-93-206 and § 16-93-1302 allow for transfer of inmates who have committed certain crimes on or after January 1, 1994, under the provisions of a transfer date, to be transferred to parole status by the Arkansas Department of Correction (ADC) subject to rules and regulations promulgated by the Board of Corrections and conditions set by the Post Prison Transfer Board. The electronic Offender Management Information System (eOMIS) assigns a transfer eligibility “TE” date to inmates who are in this “transfer eligible” category (other inmates who are eligible for parole are assigned a “parole eligible (PE)” date).

When the Board considers inmates with a TE date those Board members voting will have only two options:

1. Transfer the inmate to the Department of Community Correction with specified conditions such as supervision level, programming requirements, and facility placement when appropriate. Conditions must be within the current resources of the Department of Community Correction; or
2. Based on the established criteria, deny transfer until the inmate completes a course of action established by the Board that would rectify the Board’s concerns. After the completion of the required course of action (which must be within the current resources of the Department of Correction), and final review of the inmate’s file to ensure successful completion, the Board will be required to transfer the inmate to the Department of Community Correction in accordance with administrative policy and subject to conditions attached to the transfer.

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This review may be conducted without a hearing when the inmate has not received a major disciplinary report which resulted in the loss of good time, there has not been a request by victim to have input on transfer conditions, and there is no indication in the risk/needs assessment review that special conditions need to be placed at the inmate.

A hearing should also be held if an inmate objects to special conditions set by the Board or the Board reverses a previous decision to release the inmate. For cases which only require a review, a Board member may choose to hold a hearing if considered appropriate.

The Institutional Release Officers (IRO) use eOMIS information and procedural guidance to determine whether the Board can screen an inmate's records and release the inmate without a hearing, or whether a hearing is required. The IRO advises the Board of the options in this regard.

Should an inmate fail to complete the required course of action, it will be the responsibility of the inmate to request a rehearing before the Board. There will not be an automatic review in such cases.

Unless otherwise determined by the majority of the Board, an inmate incarcerated at the Varner Unit Super Max who has failed to complete the required course of action of attaining level 5 will not be granted a rehearing by the Board unless and until such level has been attained.

Inmates with Parole Eligible Parole Eligible "PE" Dates.

A Board "discretionary transfer" hearing will be conducted for all inmates with a parole eligible (PE) date, unless the inmate waives the hearing in writing. Board members use the release decision criteria as a basis for deciding whether to approve transfer. For inmates with a PE date the Board has discretionary transfer authority. Discretionary authority means the Board can deny parole with or without recommending a course of action to the inmate and if a course of action is recommended and completed, the Board is not required to release the inmate to community supervision.

Foreign Nationals.

Parole consideration must be the same for foreign nationals, their status or inability to return to their home country must not affect a parole decision. Foreign Nationals may be paroled to their home country when informal arrangements can be made for the transfer and when the inmate consents.

All Inmates.

Within 90 days of incarceration, the Arkansas Department of Correction (ADC) will provide inmates who have a TE or PE date with a time card that will provide at a minimum the following information: (1) sentence length, (2) offense, (3) minimum required time to be served before transfer/parole eligibility, (4) jail time, (5) class status, and (6) release dates.

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Notification of Officials and Victims.

The Board will solicit the written or oral recommendations of the committing court, the prosecuting attorney, and the sheriff of the county from which the inmate was committed.

If the person whose parole is being considered by the Board was convicted of capital murder or of a Class Y, Class A, or Class B felony, or any violent or sexual offense, the Board shall also notify the victim of the crime, or the victim's next of kin, of the parole hearing and shall solicit written or oral recommendations of the victim or his next of kin regarding the granting of the parole, unless the prosecuting attorney has notified the Board at the time of commitment of the prisoner that the victim or his next of kin does not want to be notified of future parole hearings. When soliciting recommendations from a victim the Board must notify the victim or his/her next of kin, of the date, time, and place of the parole hearing.

Victim(s) of the crime (or the victim(s)' next-of-kin) who wish to participate in the victim input process have two responsibilities: (1) to notify the Board or its designee of their intention to provide input, and (2) to provide to the Board or its designee a correct and current mailing address.

Supporting documentation of the victim(s)' (or the victim(s)' next-of-kin) claims will be accepted by the Board. In cases involving the transfer of an inmate, the victim(s) or victim(s)' next-of-kin may request and be granted a hearing to provide input concerning the inmate's release conditions only.

All release hearings will be conducted by a member or members of the Board. However, in situations where there are staffing shortages or high workload, the Chairperson may choose to use Hearing Examiners to conduct release hearings on an interim basis.

At the time that a person is paroled or transferred by the Board, the Department of Community Correction shall give written notice of the granting of the release or transfer to the Sheriff, the Judge, and the Chief(s) of Police of all cities of the first class of the county from which the person was sentenced. If a victim or victim's next-of-kin has requested notification, notice will also be provided by the Parole/Probation Officer.

If a person is released to a county other than that from which he/she was committed, the Department of Community Correction, or its designee, shall give notice to the Chief of Police or Marshall of all cities to which he/she is released, and the Sheriff of the county to which he/she is released.

A record shall be kept of the actions of the Board and the Institutional Release Services staff shall notify each institution of decisions relating to persons who are or have been confined therein. The Board will retain a copy of recommendations received and such recommendations will be open to the public during reasonable business hours. (Ark. Code Ann. § 16-93-702) The Board will accept or hear input only as it relates to the inmate's release conditions.

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Release Hearing Preparation and Guidelines.

The Board requires that inmates are notified in writing of parole or transfer hearings at least fourteen days prior to the hearing. Inmates are notified by the Institutional Release Officer (IRO) located at their unit through a personal interview. The five objectives of the interview are: (1) notification that the inmate is being scheduled to meet the Board, (2) the inmate signs a "Notice of Hearing" form to acknowledge this notification, or a Waiver of the Board Hearing, or a deferral of consideration. The original of the form is to be given to the inmate and the pink copy filed in the inmate's State file. A new form is required each time an inmate is scheduled for a hearing, (3) to obtain detailed information regarding the inmates release plans if parole is granted (4) to provide the inmate with copies of form 153 statements from sheriffs, judges, and prosecuting attorneys, if any, and (5) to answer any question the inmate may have regarding parole.

About fourteen days before the Board meets at an ADC or DCC unit the Institutional Release Services staff will prepare, update and verify a parole file for each inmate being considered for parole or executive clemency. If there is any question as to the accuracy of the information gathered, the staff should verify the accuracy. If the accuracy cannot be verified, the information should be annotated to state this fact. The parole file should contain a voting worksheet for the Board members, a synopsis of the inmate's state file, Field Report submitted by the Parole/Probation Officer, legal notices if required, Risk Assessment Indicator Sheet, victim notification information if required, form 153 responses from sheriffs, judges, and prosecuting attorneys, support and protest correspondence, if any, and prior Boot Camp or parole violation warrants, reports, transcripts, and parole plan. The file is delivered to the Board about one week before interviews at the unit for Board members to review prior to the hearing and to refer to the file during the hearing if necessary.

The Institutional Release Services staff will give the inmate copies of form 153 responses from sheriffs, judges, and prosecuting attorneys so that the inmate will have information on which the parole decision will be made. If an inmate has requested a victim statement, the request will be forwarded to the DCC Public Relations Office for processing. State law prohibits staff from releasing State criminal justice records to inmates. The Institutional Release Services staff should advise the inmate that additional confidential information may be considered by the Board such as witness statements and the Board will consider the inmate's work, education, and disciplinary records.

When the Board member uses confidential information (that has not been provided to the inmate) as a basis for a decision, the Board member should advise the inmate that confidential information is being used as a basis for the decision.

The inmate may invite interested persons to his/ her Board hearing. There is no limit to the number of visitors an inmate may invite to the hearing. There is no age limit. Visitors are not required to be on the inmate's Visitation List but must be eligible for it. All unit rules for visitation must be complied with in respect to attire and grooming. Units will give the utmost consideration of security when admitting visitors to the unit for Board hearings. The Board may

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limit presentations to just one visitor in addition to hearing from the inmate. Victims who arrive at a unit to attend the inmate's hearing will not be admitted to the hearing. Under Arkansas law, the victim is entitled to a separate hearing with the Board. Attorneys will be offered preference to be moved to the top of the docket.

Parole Hearing Panel.

The Board may designate a panel for the interviewing of persons for possible parole, transfer and executive clemency. In addition to a Board member or hearing examiner, a panel may be comprised of one of the following: another Board member, a hearing examiner, a designated official of the Department of Correction, a designated official of the Department of Community Correction, or a designated official selected by the Board member interviewing.

Transfer Decision Criteria for Release to Parole Status for TE and PE Inmates.

Release or discretionary transfer may be granted to an eligible person by the Board when, in its opinion, there is a reasonable probability that the person can be released without detriment to the community or him/herself.

In making its determination regarding a person's release or discretionary transfer, it is within the discretion of the Board to take into account, among other things, the following factors:

1. institutional adjustment in general, including the nature of any disciplinary actions
2. When considered necessary, an examination and opinion by a psychiatrist or psychologist can be requested and considered
3. The record of previous criminal offenses (misdemeanors and felonies), the frequency of such offenses, and the nature thereof
4. Conduct in any previous release program, such as probation, parole, work release, boot camp or alternative service
5. Recommendations made by the Judge, Prosecuting Attorney, and Sheriff of the county from which a person was sentenced, or other interested persons;
6. The nature of the release plan, including the type of community surroundings in the the person plans to live and work
7. The person's employment record
8. The person's susceptibility to drugs or alcohol
9. The person's basic good health, physical and mental
10. The person's participation in institutional activities, such as, educational programs, rehabilitation programs, work programs, and leisure time activities
11. The failure of an inmate incarcerated at the Varner Unit Super Max to attain level 5
12. When there is a detainer the Board must pursue the basis of any such detainer and only release the inmate to a detainer where appropriate. A detainer must not be considered an automatic reason for denying parole.

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Conducting a Release Hearing.

All hearings will be conducted in privacy and all individual case information will be kept confidential. Prior to the hearing, Board members must review information available in writing about the offender's prior history, current situation, events in the case since any previous hearing, information about the offender's future plans, and relevant conditions in the community. The Board member conducting the hearing is responsible for making a record of the major issues and findings in the hearing report. The Board member may choose to make an audio recording of hearings and file recordings for future reference.

Parole Consideration of Out-Of-State Inmates, Interstate Compact.

The Board will transfer or consider for parole those eligible persons serving Arkansas sentences outside the State of Arkansas in the following manner:

When an inmate confined in the prison system of another state or the federal system becomes eligible for transfer or parole in Arkansas, as indicated by a certified copy of a Judgment and Commitment Order from a court of this state, the appropriate records office of the Department of Correction shall notify the DCC Institutional Release Services office.

Before taking action on a transfer or parole request by an out-of-state inmate, the DCC Institutional Release Services office will request, in writing, that the corresponding board or commission in the jurisdiction where the person is incarcerated will provide the following information: 1) For cases with a TE date, a risk assessment evaluation; 2) For cases with a PE date, a recommendation and supporting documentation as to whether the person should be released.

The Board will use the information provided in lieu of the person's personal appearance before the Board. The Board will also consider information about the person and his crime provided by parole staff, law enforcement agencies, the victim(s) (or the victim(s)' next-of-kin), public officials, the person being considered, and other interested persons.

All other provisions of Arkansas law pertaining to transfer and/or the granting or denying of parole to persons held by the Department of Correction shall apply.

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Release Decision Summary.

A person considered by the Board for release will be advised in writing of the Board's decision within 21 days from the date of the hearing. The notification will include the Board's action and the most significant reason(s) for that action. The needs of safety and control within each unit prescribe that no information concerning the vote on possible release of an inmate will be made until the Monday following the ratification of voting held at a regularly scheduled meeting of the Board.

A summary of the hearing will be available after the Board's vote decision has been released. Vote sheets are used in every decision making process done by the Board and are available upon request.

Release of an Inmate with an Incurable Illness or who is Permanently Physically or Mentally Incapacitated.

When, in the independent opinions of a prison physician and a consultant physician from the community, an inmate has an incurable illness which, on the average, will result in death within twelve months, or when an inmate is permanently physically or mentally incapacitated to the degree that the community criteria are met for placement in a nursing home, rehabilitation facility, or similar setting providing a level of care not available in the Department of Correction or the Department of Community Correction, the Director of the Department of Correction or the Director of the Department of Community Correction shall make these facts known to the Post Prison Transfer Board.

The Board shall assemble or request all such information as is germane to making a decision. If the facts warrant, the Board may make the inmate eligible for immediate transfer to parole supervision.

Supervision of Parolee.

Every parolee, while on release shall be subject to the orders of the Board. Failure to abide by any of the conditions as instructed may result in revocation of his/her conditional release.

Every inmate is given a written copy of their supervision conditions by the Parole/Probation Officer and will sign that they understand their release conditions. A Parole/Probation Officer may request that a supervision condition be amended or removed entirely. Any request for exemption of a special condition must be approved by the Board.

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Upon release, an order of restitution previously entered by a sentencing court against a parolee becomes a condition of that release. If a parolee advises their supervision officer that they cannot pay, within 90 day of release, an officer of the Department of Community Correction will submit a report to the Board setting forth the parolee employment status, earning ability, financial resources and any other circumstances that may have a bearing on the parolee ability to pay the ordered amount of restitution. After reception of this report, the Board will determine if the parolee has the ability to pay restitution. If the Board determines that the parolee has the ability to pay restitution, then it will establish an amount that must be paid periodically by the parolee.

As indicated in condition number 10, any parolee's automobile or residence may be searched by a Department of Community Correction officer, without a warrant based on probable cause, if the Department of Community Correction officer has reasonable grounds for investigating whether a parolee has violated the terms of his/her release or committed a crime. The term "reasonable grounds" does not mean that which would be necessary for probable cause. Rather, it means a reasonable suspicion that a parolee has committed a release violation or crime.

At any time during a parolee's conditional release, the Board may issue a warrant for the arrest of the parolee for violation of any conditions or release or may issue a notice to appear to answer a charge of a violation. The warrant or notice shall be served personally upon the parolee. The warrant shall authorize all officers named therein to place the parolee in custody at any suitable detention facility pending a hearing.

Any Department of Community Correction officer may arrest a parolee without a warrant or may deputize any officer with power of arrest to do so by giving the officer a written statement setting forth that the parolee, in the judgment of the Department of Community Correction officer, violated conditions of the parolee's release. The written statement delivered with the parolee by the arresting officer to the official in charge of the detention facility to which the parolee is brought shall be sufficient warrant for detaining the parolee pending disposition.

Appeal of Parole Board Decision.

An inmate or his/her attorney may request reconsideration of any parole decision of the Board within sixty days of the release of the vote. Written requests for reconsideration shall be submitted to the Board. Only one reconsideration request will generally be considered by the Board for a particular Board action.

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Designee for Conducting Hearings.

The Board's designee for conducting final release revocation hearings is the Hearing Examiner.

Hearing Waiver for Technical Violator Program (TVP) Participation.

When an offender has committed a serious technical violation or repeated pattern of minor violations, and the parolee meets eligibility requirements for the technical violator program, the Board authorizes a supervision officer to process a violation report, give notice to the parolee, and transport the technical violator to the technical violator program if the parolee voluntarily signs a hearing waiver. In such cases the violation report must be promptly sent to the Board for review, confirmation, and approval. Upon receipt of the violation report, the Hearing Examiner will complete a hearing report to document the review and administratively revoke the parolee's release status.

If the hearing examiner discovers situations where the violation does not appear to warrant participation in the technical violator program, the case must be brought to the attention of the Board Chairperson who will raise the issue with the Department of Community Correction director or his/her designee.

Warrant and Criteria for Arrest of Parolee.

When a parolee has committed a violation that results in a violation report a warrant should only be issued when the parolee's presence in the community, pending disposition of a revocation hearing, would present unreasonable risk to public or individual safety or when it is very likely that the parolee will abscond. Supervision officers should request warrants only when these criteria are met. The Board will review violation reports requesting a warrant and issue warrants only when the criteria are met. Sufficient evidence should exist before issuing a detention warrant; however, the evidence does not need to rise to the same standard of probable cause required for arrest and criminal charges. This does not prohibit the supervision officer from arresting the parolee with a "white warrant" for detaining the parolee while waiting for a Post-Prison Transfer Board warrant.

New Felony Charges.

When a new felony is committed and the parolee is not held on a Board-issued warrant, the Hearing Examiner may choose to hold or postpone the revocation hearing. If postponed, the Hearing Examiner can choose to conduct a hearing later, such as when new violations occur. If postponed and the court sentences the parolee to time at ADC, the Hearing Examiner processes an administrative revocation (no hearing). If postponed and the court sentences the person to probation, the Hearing Examiner will abide by the court's decision.

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When a parolee receives a new felony conviction and is sentenced to prison, the release may be revoked without a hearing. Written notice of this action will be forwarded to the person with a copy to the state file. If the person's conviction is set aside on appeal or otherwise nullified, his/her release will be reinstated, unless the Board or its designee has previously found by a preponderance of the evidence, after a hearing, that the parolee inexcusably violated one or more conditions of release justifying revocation notwithstanding the lack of a conviction for a criminal offense.

Possible Outcomes of the Revocation Hearing.

If a parolee is found to have violated a condition(s) of his/her release the Hearing Examiner may impose additional conditions of release or revoke his/her release and specify whether the violator should be sent to the Technical Violator Program (TVP) (when eligible) or the Arkansas Department of Correction (ADC).

The Hearing Examiner should consider the range of alternatives for sanctions and or treatment. The following alternatives are generally actions that are considered and/or used by the supervision officer for minor violations, before resorting to a violation report. However, these may be used in lieu of revocation: increased supervision level, referral to a counseling program or service, referral to a resource agency or program appropriate to the offense, the loss of meritorious good time accrual status (good time earned while in parole status to reduce the time required to be under active supervision), a letter of reprimand, verbal warning, electronic monitoring, or curfews. The Hearing Examiner may confer with the supervision officer to determine the best course of action. An offender should only be returned to prison after considering less severe sanctions and treatment programs, and when it is determined to be in the clear interest of the public.

Actions When Revoked.

If revoked, the Hearing Examiner will complete appropriate sections of the "ADC Disposition of Revocation Hearing" form for Boot Camp program parolees or "Arkansas Post Prison Transfer Board Disposition of Parole Revocation Hearing" forms for all other parolees. The Hearing Examiner will enter the month when the parolee is to be scheduled to appear before the Board using the criteria below. This month is entered even when the parolee is sent to the TVP because the parolee may subsequently be transferred to ADC for disciplinary reasons in which case the date would apply.

Determining the Release Hearing Date.

On the disposition of revocation hearing form, indicate the month the parolee will be scheduled for a release hearing using the following guidelines: Set the release hearing month at six months from the date of incarceration, minus any months already spent in jail if the parolee has not been a behavior problem while in jail. The number of months may be reduced as low as 3 months when the technical violation is relatively minor. The time can be set up to one year; however, permission must be obtained from the Board Chairperson before setting a date exceeding six months.

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Preliminary Hearing Requirement.

For Interstate Compact parolees, when the sending state has issued a warrant, a preliminary hearing must be held within 14 days from the time the warrant was served with one exception. The exception is made if the parolee has admitted to one or more significant violations of supervision conditions.

The Hearing Examiner must forward any evidence or record generated during a probable cause hearing through the DCC Interstate Compact Office to the sending state.

When a preliminary hearing for an Arkansas parolee is required, Hearing Examiners usually schedule and conduct a revocation hearing within the allowable 14-day time period, thereby making it unnecessary to conduct a preliminary hearing. When a parolee is incarcerated and there is a white warrant and/or Board-issued warrant, a preliminary hearing must be held within 14 days from the date the warrant was served unless one of the following conditions applies:

1. The parolee voluntarily, knowingly and intelligently waives his/her right to a hearing after being informed of rights pertaining to the hearing and the consequences of waiving the hearing, or
2. The violation report is substantiated by a court conviction or a court finding of probable cause on new criminal charges, or
3. A revocation hearing was held, or
4. The Hearing Examiner has determined there is good cause for delay or postponement of the hearing and this is documented; for example, the parolee or his/her attorney may request postponement.

A preliminary hearing follows the same procedures as a revocation hearing with the following exceptions:

1. The result of the preliminary hearing is not a finding of guilt, but a finding that there is probable cause to hold a revocation hearing. A finding of probable cause justifies a longer period of incarceration pending a revocation hearing.
2. Extenuating and mitigating factors do not need to be considered at a preliminary hearing because the finding is one of probable cause. Extenuating and mitigating factors can instead be discovered in a revocation hearing.

Release Revocation Process.

At a revocation hearing the Hearing Examiner must seek and consider evidence that supports or counters the violation charges as well as any extenuating or mitigating circumstances that suggest that the violation does or does not warrant revocation.

Hearing Examiners must allow the parolee and his /her attorney when present, to exercise the right to:

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1. Present evidence and favorable witnesses
2. Seek disclosure of evidence
3. Confront adverse witness (es), unless the witness (es) would be subjected thereby to a risk of harm
4. Have counsel of choice present or, in the case of indigent parolees who request assistance to adequately present their case, have council appointed; however, the Hearing Examiner may determine that the situation does not justify the expense of a lawyer
5. Request postponement of the hearing for good cause.

The supervision officer will

1. Request a warrant when arrest is considered necessary
2. Arrest and jail parolees only when criteria are met
3. Advise parolee of hearing related rights to include the rights hearing examiners must allow as described in the previous paragraph
4. Give the parolee notice of the violation
5. Offer the parolee an opportunity to sign a hearing waiver when TVP-eligible
6. Give scheduled parolees 72 or more hours notice of scheduled hearing
7. Transport jailed parolees to scheduled hearings
8. Be present at hearings to provide supplemental information and security
9. For parolees sent to the TVP, use criteria to set the release hearing month (this date is for a release hearing if the revoked parolee is subsequently transferred from the TVP to ADC)
10. Transport parolees to the TVP or arrange transportation to ADC as appropriate
11. Process any additional supervision conditions.

The Parole/Probation Manager (or designee) will notify the Board of parolees who require a hearing by providing a prioritized list so that the Board staff may schedule hearings.

The staff person responsible for scheduling revocation hearings will schedule hearings such that the requirements are met for holding a preliminary hearing (or a revocation hearing) within 14 days for detained parolees and revocation hearings within 60 calendar days for parolees who are not being detained.

The Hearing Officer will

1. Hold a preliminary revocation hearing as described above when required. A revocation hearing may be held in lieu of a preliminary hearing with the exception of Interstate Compact cases.
2. When a preliminary hearing has been held or is not required, hold a revocation hearing within 60 days from the date of the violation report unless the parolee has signed a hearing waiver.
3. Conduct a hearing where the parolee will be in or near the community where the violation is alleged to have occurred or where the parolee has been taken into custody; the Hearing Examiner may be at a remote location using a telephone or voice-image communications media.
4. When the day's hearings have been completed, the Hearing Examiner will complete the hearing results and give 3 signed copies of the hearing report to the supervising officer

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The supervising officer will provide one copy to the parolee after appropriate restraints are in place (if the decision is to not revoke the parolee, restraints would not be necessary since the parolee would be released to community supervision). The supervising officer will keep one copy and will provide the other copy to the receiving facility (TVP or ADC). The Hearing Examiner will prepare a written report for each hearing. This written report will include a statement of the reasons for the determination made and the evidence relied upon to include a summary of documents presented and responses made at the preliminary / regular hearing. A copy will be filed and copies sent to reach the parolee (if revoked) and the supervision officer within 21 calendar days of the hearing.

Appeal of Hearing Examiner's Revocation Decision.

A parole violator may appeal his/her revocation by submitting a written appeal to the Board. Filing of an appeal will not preclude sending the release violator to the TVP or ADC. However, a Hearing Examiner may choose to suspend sending the violator to the TVP or ADC when the Hearing Examiner is aware of an appeal or intent to appeal, and if the violator has not yet been taken to the TVP or ADC.

Filing of an appeal will not preclude sending the release violator to the TVP or ADC. An appeal of release revocation is made in the following manner:

1. Appeal of a decision by the designee to revoke release must be made in writing by the parolee or his/her attorney to the Board within thirty (30) days from the date of the revocation hearing report unless the time period or other requirements are waived by the Board.
2. In the written appeal, the parolee or his/her attorney may request a general review of the decision to revoke and ask that the decision be reversed. The parolee or his/her attorney should state in the appeal specific reasons for the belief that the decision should be reversed.
3. The appeal shall be presented to the Board as soon as practicable after it is received. The report of the designee containing a summary of the evidence presented at the revocation hearing, the decision of the designee, and the reasons for the decisions shall also be presented to the Board.

Upon the consideration of the appeal, the Board shall vote

1. to affirm the decision of the Hearing Examiner
2. to reverse the decision of the Hearing Examiner, or
3. to schedule an appearance by the parolee before the Board for further consideration.

If the parolee is scheduled to appear before the Board, he/she will be afforded the same rights he/she was afforded at the revocation hearing.

PROPOSED COPY AS OF: April 7, 2005 PPTB MANUAL EXECUTIVE CLEMENCY

Overview and Terminology.

Clemency means kindness, mercy, forgiveness, and leniency. Executive clemency is sometimes referred to in this section as “clemency.” Executive Clemency is the process through which the Governor considers requests for granting reprieves, commutations of sentence, and pardons after conviction; and considers requests to remit (forgive) fines and forfeitures. A reprieve is a temporary relief from or postponement of execution or criminal punishment or sentence. A reprieve is just a stay (delay) of the execution of the sentence for a time which is typically given to allow an offender an opportunity to reach agreement on a change to the imposed sentence. A respite is a temporary suspension of the execution of a sentence. Commutation means a permanent change of sentence or punishment such as changing a death sentence to a life sentence without parole. A pardon request asks that a criminal record be expunged (removed) from the public record. A pardon is a permanent cancellation of a sentence. A pardon may be requested by a person who is no longer incarcerated. Incarcerated persons submit requests through the Institutional Release Officer (IRO). Persons who are not incarcerated submit applications directly to the Arkansas Department of Community Correction Institutional Release Services office in Pine Bluff where background information is gathered. The requests are then forwarded to the Post Prison Transfer Board for investigation and the Board provides a report and recommendation to the Governor. Important guidance about the executive clemency process can be found in this section, at attachment 1, on the application form, and in supplemental guidance published in a governor’s memo.

Authority for Executive Clemency.

The Arkansas Constitution, Article 6, Section 18, gives the Governor pardoning power as follows:

“In all criminal and penal cases, except in those of treason and impeachment, the Governor shall have power to grant reprieves, commutations of sentence and pardons after conviction; and to remit fines and forfeitures under such rules and regulations as shall be prescribed by law. In cases of treason he shall have power, by and with the advice and consent of the Senate, to grant reprieves and pardons; and he may, in the recess of the Senate, respite the sentence until the adjournment of the next regular session of the General Assembly. He shall communicate to the General Assembly at every regular session each case of reprieve, commutation or pardon, with his reasons therefor, stating the name and crime of the convict, the sentence, its date and the date of the commutation, pardon or reprieve.”

Eligibility and Application for Executive Clemency.

Any person serving a term of years, life, life without parole, or sentence of death may apply for executive clemency (commutation of sentence). A person who is not presently incarcerated may also apply for executive clemency. A person who is incarcerated may request an application form from the Institutional Release Officer (IRO) unless the applicant has a pending clemency

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request. The incarcerated person returns the completed application to the IRO. Once an application is submitted for screening and/or consideration, the process cannot be interrupted.

For persons who are not currently incarcerated, an application form can be obtained from, and completed applications sent to, the Arkansas Department of Community Correction, Institutional Release Services; P.O. Box 8707; Pine Bluff, AR 71611.

Inmates serving a death penalty must file an application for executive clemency as described in the application form. Other guidance for processing applications is described in the “Overview and Terminology” paragraph above.

An application for executive clemency must set forth the grounds upon which the pardon or commutation is sought. Following are examples of grounds upon which an application may be filed: (1) to correct an injustice which may have occurred during the person’s trial; (2) life threatening medical condition (also see Ark. Code Ann. § 12-29-404) (3) to reduce an excessive sentence; (4) the person’s institutional adjustment has been exemplary, and the ends of justice have been achieved.

Any person who has been convicted of capital murder (Ark. Code Ann. § 5-10-101, or a Class Y, Class A, or Class B felony, excluding nonviolent offenses under the Uniform Controlled Substances Act §5-64-101 et. seq., and who makes an application shall not be eligible to reapply for a period of four years after the date the application was denied except that a person whose application was denied by the Governor after receiving a majority vote by the Post-Prison Transfer Board in favor of the application is eligible to reapply one year after the date the application was denied by the Governor.

Required Notice of a Clemency Request and Request for Comment.

In addition to any other requirements, the Executive Clemency Coordinator will solicit the written or oral recommendation of the committing court, the prosecuting attorney, and the sheriff of the county from which the person was committed.

If the inmate is serving a sentence for capital murder (Ark. Code Ann. § 5-10-101 and 5-4-607(a)(1)), or a Class Y, Class A, or Class B felony, copies of the application will be filed with the Secretary of State, the Attorney General, the Sheriff of the county in which the offense was committed, the Prosecuting Attorney of the judicial district in which the applicant was found guilty and sentenced, and the Circuit Judge presiding over the proceedings at which the applicant was found guilty and sentenced or his/her successor.

If the inmate is serving a sentence for capital murder (Ark. Code Ann. § 5-10-101), the application will also be published by the Executive Clemency Coordinator by placing two insertions, separated by a minimum of seven (7) days, in a newspaper of general circulation in the county in which the applicant committed the offense.

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For crimes described in this section, the Executive Clemency Coordinator will send to the victim(s) (or the victim(s)' next-of-kin), at their last known address (es), notification of the person's application when the victim/next-of-kin has registered to receive such notices. The notice will solicit a written or oral recommendation.

The Executive Clemency Coordinator will use the electronic Offender Management System (eOMIS) to ask the Parole/Probation Officer to prepare a field report. As part of a field report the officer contacts the prosecuting attorney and asks whether there are any victims or next-of-kin who have requested notification (and checks eOMIS for this information). If there are, the officer sends them notification of the clemency application and informs the Executive Clemency Coordinator of this action. When the suspense date for comments has passed, the Executive Clemency Coordinator assembles a file and sends it to the Board for consideration.

Supplemental Guidance Pertaining to Death Sentence Cases.

In death sentence cases, executive clemency requests must be in the time period described on the application form. When the Governor sets an execution date, the Institutional Release office will cause to be sent to the inmate and the inmate's attorney of record certified letters informing them that an application for executive clemency must be filed no later than 40 days prior to the scheduled execution date. Executive clemency requests filed late will not be considered. The last date on which an application for executive clemency will be accepted will be specified in the letters. This date will be determined by counting back 40 days from the date of execution, with the day preceding the date of execution being counted as day 1. If the 40th day is a Saturday, Sunday, or holiday, an application filed on the next business day will be accepted.

At least 30 days prior to the execution date, the Board, with a quorum of members present, must conduct a hearing to include an interview of the inmate who has submitted an executive clemency request. Additional instructions are at attachment 1. In clemency death sentence cases a hearing is mandatory.

Date and Place of Filing.

An application for executive clemency will be considered as having been filed when it is received by the Department of Community Correction, Institutional Release Office. The address is on the application form.

Board Investigation, Review, and Report.

At least four Board members will individually review each clemency file. Board members will vote to recommend that clemency be denied or to schedule the person for a hearing before the Board (a hearing is required for death sentence cases, see above details). If any one of the Board members requests a hearing, a hearing will be scheduled. Board members may request supplemental information or take other reasonable actions to ensure a complete investigation prior to making a decision. The file is then returned to the DCC Institutional Release Office, Executive Clemency Coordinator.

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If a hearing is granted the Executive Clemency Coordinator will notify the victim(s) (or the victim(s)' next-of-kin) and will ask the IRO to schedule a hearing at least 30 days from the time notice of the hearing was given to the victim(s) (or the victim(s)' next-of-kin).

Hearing Process.

An applicant for executive clemency who appears before the Board may be accompanied by supporters, including his/her attorney. If the person is not incarcerated in this state, his/her appearance before the Board is not necessary. The Board shall consider the statements of the applicant and a spokesperson, the applicant's file, the officer's report and/or a pre-sentence report and any documentary evidence presented by the applicant or other interested persons including the victim(s) (or the victim(s)' next-of-kin). On the basis of this information, the Board will vote (1) to recommend that clemency be granted, or (2) to recommend that clemency be denied. If the Board recommends that clemency be granted, it may specify the nature and terms of the commutation being recommended. There are some differences in this process for inmates sentenced to death, as described in the "Supplemental Guidance Pertaining to Death Sentence Cases" paragraph.

After the Board Review/Hearing.

The Board shall submit to the Governor its recommendation, a report of the investigation, and all other information the Board may have regarding the applicant. (Arkansas Code Annotated §16-93-204) All applications for executive clemency considered by the Board, with the non-binding recommendation will be forwarded to the Governor for final action.

No Clemency Appeals.

There is no appeal to the Board's recommendation. There is no appeal of the Governor's decision. When situations warrant a new clemency application may be submitted, subject to some restrictions on how soon an application can be submitted for certain crimes.

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BOARD MANAGEMENT AND ADMINISTRATION

Policy Manual Availability and Review.

The Board Chairperson will ask the Department of Correction and Department of Community Correction to make this policy manual readily available to inmates, residents and parolees. The Board Chairperson will also ensure the policy is available to staff and the public. The Board Chairperson will initiate an annual review by all Board members of the Board's policies and will ensure that revisions and updating are undertaken when necessary.

Access to Persons and Records.

All Department of Correction and Department Community Correction officials have a legal duty to grant to Board members properly accredited Board representatives, access at all reasonable times to any person over whom the Board has jurisdiction, to provide facilities for communicating with and observing such persons, Also, to furnish the Board such reports as the Board shall required concerning the conduct and character of any person in the custody of the Department of Correction or Department of Community Correction and to provide any information deemed pertinent by the Board in determining whether a person shall be released.

Legal Assistance.

Board members may seek legal advice from the DCC Staff Attorney or an assigned attorney at the State Attorney General's Office. The State Attorney General will represent the Board when required.

Inspection of Records.

The Parole Board staff will not release information to inmates or the public unless authorized in this manual or in writing by the Board Chairperson. All requests for information should be forwarded to the Department of Community Correction Public Relations Office.

Parole and Clemency Files – Pursuant to the provisions of Ark. Code Ann. § 16-93-202, the following portions of Parole and Clemency files will be provided by the DCC Public Relations Office for inspection; upon request by a person having a proper interest therein and whenever the interests or welfare of the person involved make inspection desirable or helpful: 153 forms, and vote sheets. The Public Relations Office may release other information unless restricted by law. The Board Chairperson or Public Relations Office may release information to researchers and others involved in monitoring or studying the criminal justice system unless restricted by law.

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Expunging the Records of “Act 378 Participants.”

A person sentenced to the Department under Act 378 of 1975, as amended (Arkansas Code Annotated Section 16-93-501 et. seq.), shall receive an expungement of his/her records by the following process:

After the person discharges the entire sentence imposed by the Court, a report will be submitted by the Department of Correction to the Chairperson of the Post Prison Transfer Board. After reviewing the information, the Chairperson shall approve an expungement, if required by law.

Upon approval, the Chairperson, or his/her designee, shall complete a Certificate of Expungement, which shall be forwarded to the person by the Department of Correction staff.

The Department of Correction staff will notify all pertinent law enforcement agencies and the Circuit Clerk’s office(s) that the person’s record has been expunged. The record will then be sealed and sequestered, to be made available only to law enforcement or judicial officials.

Participation of Parolee in Law Enforcement Undercover Operations.

The Board will not authorize a parolee to participate in any Law Enforcement Undercover Operation. However, the Director of the Department of Community Correction may authorize parolee participation in undercover investigations in a manner consistent with Department of Community Correction policy.

Additional Information about Related Activities Accomplished by Other Agencies.

In addition to related tasks described elsewhere in this manual, the DCC and ADC accomplish the following tasks in support of the Board mission.

The DCC notifies registered victim(s) and next-of-kin by mail of such things as the following: scheduled parole hearings, requests for clemency, scheduled release date, escape, and return to custody after escape.

The ADC operates the telephonic system “Victim Information and Notification Everyday” (VINE) which can automatically notify registered victims of such things as scheduled parole hearings, requests for clemency, scheduled release date, escape, and return to custody after escape.

Facilities and Equipment. The Chairperson will ensure staff has adequate equipment and space with appropriate privacy as necessary for the effective and efficient processing of business.

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Planning, Goals, Objectives, and Program Coordination.

The Chairperson must accomplish the following:

1. Participate in Board of Corrections meetings to facilitate planning.
2. Meet at least annually with the ADC and DCC Directors, and as necessary with the Sentencing Commission to coordinate programs and facilitate joint State-wide planning.
3. Meet at least semiannually with the director(s) of institutions from which parole is granted.
4. Ensure the Board has written long-range goals and related objectives and that these are reviewed, updated as needed, and evaluated for progress.
5. Maintain regular liaison with appropriate legislative committees, during at least each regular session of the legislature, for the purposes of offering advice and opinions on appropriate legislative matters.

The Chairperson or assigned Board member will meet at least annually with the administrative staff of the of the parole investigation and supervision agency to ensure a means exists for coordinating efforts, to undertake joint planning, and to agree on means of implementing and evaluating such plans.

The Chairperson or assigned Board member will meet at least annually with representatives of relevant criminal justice agencies, police, prosecution, and courts to develop means of coordinating programs, to undertake joint planning, and to agree on means of implementing and evaluating such plans.

Each Board member will visit one or more institutions and a representative sample of community facilities at least annually, specifically for the purpose of meeting with staff and inmates/residents to exchange information about programs, institutional operations, and parole policies and procedures. Minutes or notes from such visits must be provided to the office manager.

Board members and/or Hearing Examiners must initiate ongoing interaction with the Parole/Probation Services staff through such means as conferences, seminars, training sessions, and visits to field offices.

Financial Processes and Controls.

Chairperson must have a budget system which links, continuing basis program functions and activities to the costs necessary for their support. There must be a clearly defined budget which provides for personnel, operating, and travel costs sufficient for the operation of the Board. Chairperson must ensure the budgetary process includes financial controls and monitoring of expenses. The Chairperson must ensure a detailed budget request is submitted and must participate in the legislative budget allocation process. In preparing the budget, input from Board members and staff must be solicited.

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Additional Chairperson Duties.

The Chairperson has the following additional administrative responsibilities:

1. Coordinate Board member work schedules job assignments
2. Chair Board meetings
3. Serve as official spokesperson, however, he/she may use the DCC Public Relations person as a media spokesperson as long as the Chairperson ensures that the Public Relations person fully understands the Board policies and positions on matters of public interest.
4. Organizing, staffing, controlling, and tracking the work of the Board's staff.

Personnel.

The Chairperson will from time to time assess the staffing mix to determine it reasonably matches the local population in terms of racial mix, thereby meeting or exceeding the intent of the affirmative action program. When necessary, deficiencies will be documented and an affirmative action plan will be put in place, based on the plan developed by the DCC Human Resources Manager. Pay rates will also be assessed to ensure they compare favorably with comparable positions in the community.

Hearing Examiners must have a minimum of a baccalaureate degree unless there is documented justification of experience that can be reasonably substituted. At least 2/3 of the Hearing Examiners must have at 3 or more years experience in a criminal justice or juvenile justice experience, or equivalent experience in a relevant profession

Training.

The Chairperson is responsible for ensuring orientation of new employees and in service staff training programs. The training program for all employees must be coordinated and supervised by a qualified staff member at a supervisory level. There must be a written training and staff development plan for all employees. The training curriculum must be developed, evaluated, and updated based on an annual needs assessment that identifies current job-related training needs. Forty hours of initial orientation training must be provided for all fulltime employees including new Board members, prior to their assuming assigned duties. Board members and all full-time employees except clerical/support staff must receive a minimum of 40 hours of relevant training and education annually in addition to administrative staff meetings. Full-time clerical and support staff must receive at least sixteen hours of training annually.

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Data Collection, Research, Analysis, and Reports.

The Board will gather data through the year from such sources as the electronic Offender Management Information System (eOMIS). At least annually the Board will review and analyze the parole decision-making, statistical, and research data.

Consistent with confidentiality requirements, the Chairperson or his/her designee will collaborate with criminal justice and human service agencies and programs of information gathering, exchange, and standardization, including national data collection efforts. Board and staff members and external research professionals are encouraged to conduct research. Board members and designated staff will work with researchers in deciding which questions should be addressed, which data should be gathered, and how data should be presented. The Board Chairperson must review and approve all research study plans before implementation. This review should ensure the privacy interests of offenders and other parties for the cases under study. The Board Chairperson and others involved in parole decision-making will use statistical and research data among other factors in making decisions and policy development. The Board and staff will use the electronic Offender Management Information System (eOMIS) as a key element in their research and decision-making system. Using eOMIS or other means, the Board will collect data for outcome measures. Outcome measures may be based on ACA recommendations, the uniform parole reporting system, or internally developed data elements. As part of this process, the Chairperson or designated staff members will obtain information from the eOMIS at least quarterly. Custom reports, to display eOMIS data suitable for outcome measures and special studies, may be requested from the DCC Information Technology office. The Chairperson will ensure results of significant research projects are provided to the appropriate staff and others. Additionally, copies will be made available to the public upon request.

The Chairperson will submit an annual report to the Governor and the General Assembly. The report will include the Board's objectives, trends in parole release, discharges and revocations, problems, and plans.

ATTACHMENTS

Attachment 1. Policies and Procedures for Executive Clemency by Persons Sentenced to Death
Attachment 2. Conditions of Release

**Post-Prison Transfer Board
POLICIES AND PROCEDURES FOR EXECUTIVE CLEMENCY
BY PERSONS SENTENCED TO DEATH**

1. Any person sentenced to death may apply for executive clemency (Arkansas Constitution, Article 6, Section 18).
2. An application for executive clemency must be filed no later than 40 days prior to the scheduled execution date.
3. An application for executive clemency will be considered as having been duly filed once it is received at the Arkansas Department of Community Correction, Institutional Release Services; P.O. Box 8707; Pine Bluff, AR 71611.
4. All exhibits or supporting documentation to be considered by the Post-Prison Transfer Board should be attached to the executive clemency application at the time of filing.
5. The application shall set forth the specific reasons or grounds upon which executive clemency is requested. Failure to set forth specific grounds shall be cause for rejection and return of the application.
6. The Post-Prison Transfer Board, meeting in regular or special session, will interview the inmate/resident concerning his/her request for executive clemency at least 30 days prior to the execution date.
7. The applicant's attorney will submit a list of all persons who will appear at the executive clemency hearing on behalf of the inmate/resident to the Post-Prison Transfer Board and the Warden of the maximum security unit on the day prior to the hearing. The list must show complete names and relationship to the inmate/resident.
8. The time allocated for all presentations and/or testimony by the inmate/resident, attorney and/or witnesses at the executive clemency hearing will be limited to a total of two hours.
9. No more than four (4) persons (the inmate/resident, attorney, and two others) may present arguments and/or testify to the Post-Prison Transfer Board at the executive clemency hearing. The Board will accept written statements by other interested persons.
10. Tape recordings of the executive clemency hearing will not be transcribed, but will be sent directly to the governor with the clemency file and supporting evidence. The attorney is responsible for providing recorders and/or stenographers should a transcript be desired.
11. The Post-Prison Transfer Board's decision will be available within 72 hours after the completion of hearings for the inmate/resident and protesters.
12. The Board Chairperson, with the approval of the Board, will make an exception to the policies and procedures in the interest of justice.

Post-Prison Transfer Board Chairperson

Date

Conditions of Release

1. **REPORTS.** You must report to your supervising officer within 24 hours after your release. Thereafter, you must report as instructed by your supervising officer. All written and oral statements made by you to your supervising officer must be truthful.
2. **EMPLOYMENT/EDUCATION.** You must maintain approved employment or be enrolled in an approved education program unless otherwise directed. You must obtain permission from your supervising officer before quitting your employment or education program. If you lose your job or are terminated from your education program, you must notify your supervising officer within 48 hours.
3. **RESIDENCE AND TRAVEL.** You must obtain prior approval from you supervising officer to change your place or residence, stay away from your approved residence overnight, or leave your assigned county.
4. **LAWS.** You must obey all federal and state laws, local ordinances and court orders. You must report any arrest, citation, or summons to your supervising officer within 48 hours.
5. **WEAPONS.** You must not own, possess, use, pawn, sell or have under you control any firearm (or imitation) or other dangerous weapon, or be in the company of any person possessing such weapons. You must not possess any ammunition.
6. **ALCOHOL/CONTROLLED SUBSTANCES.** You will avoid the excessive use of alcohol, or abstain completely if directed, and will stay out of bars, taverns, clubs, and liquor stores. You must not sell, deliver or possess, or use controlled substances except as prescribed by a physician. You will submit yourself to random testing for the use of intoxicants and/or controlled substances.
7. **ASSOCIATION.** You must not associate with convicted felons, persons who are engaged in criminal activity, or other persons with whom your supervising officer instructs you not to associate. (Association with convicted felons at work, in counseling programs, in church, or in other locations and circumstances specifically approved by the Post Prison Transfer Board or your supervising officer is not prohibited).
8. **SUPERVISION FEES.** You must pay a monthly supervision fee unless granted an exemption. Community service work in lieu of supervision fees may be required.
9. **COOPERATION.** You must, at all times, cooperate with your supervising officer and the Post Prison Transfer Board. You must submit yourself to any rehabilitative, medical, or counseling program that the Post Prison Transfer Board or your supervising officer deems appropriate.
10. **SEARCH AND SEIZURE.** You must submit your person, place of residence, and motor vehicles to search and seizure at any time, day or night, with or without a search warrant, whenever requested to do so by any Department of Community Correction Officer.
11. **WAIVER OF EXTRADITION.** Your acceptance of conditional release constitutes an agreement to waive extradition to the State of Arkansas from any jurisdiction in or outside the United States where you may be found, and you also agree that you will not contest any effort by any jurisdiction to return you to the State of Arkansas to answer a charge of violation of any of the conditions of your release.
12. **SPECIAL CONDITIONS.** The Board may set special conditions and the parolee must abide by any special conditions set by the Board, e.g., mental health, alcohol and/or drug abuse treatment program, or community service in lieu of fee exemption.

**QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS WITH THE
ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE**

DEPARTMENT/AGENCY: Post Prison Transfer Board

DIVISION: Chairperson's Office

DIVISION DIRECTOR: Leroy Brownlee

CONTACT PERSON: Sharon Lewis

ADDRESS: Two Union National Plaza Bldg, 105 West Capitol, 5th Floor, Little Rock, AR 72201-5731

PHONE NO. (501) 682-3850 FAX NO. (501) 682-3860 E-MAIL
Sharon.lewis@arkansas.gov

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Donna K. Davis
Subcommittee on Administrative Rules and Regulations
Arkansas Legislative Council
Bureau of Legislative Research
Room 315, State Capitol
Little Rock, AR 72201

- 1. What is the short title of this rule? **Post Prison Transfer Board Manual**
- 2. What is the subject of the proposed rule? **Post Prison Transfer Board staff procedures and public interaction.**
- 3. Is this rule required to comply with federal statute or regulations? Yes ___ No **X**

If yes, please provide the federal regulation and/or state statute citation.
- 4. Was this rule filed under the emergency provisions of the Administrative Procedure Act?
Yes ___ No **X**

If yes, what is the effective date of the emergency rule?

When does the emergency rule expire?

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes _____ No _____

5. Is this a new rule? Yes _____ No X

If yes, please provide a brief summary explaining the regulation. **A summary is enclosed. The previous edition of this manual was substantially revised thereby making it impractical to develop a mark up copy.**

Does this repeal an existing rule? Yes X No _____ If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

Is this an amendment to an existing rule? Yes _____ No X If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. Note: The summary should explain what the amendment does, and the mark-up should be clearly labeled "mark-up."

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. **Ark. Code Ann. § 16-93-206 provides authority for formulating rules.**
7. What is the purpose of this proposed rule? Why is it necessary? **This rule was developed to guide the Post Prison Transfer Board staff in conducting routine business. The procedures align with standards published by the American Correctional Association. A secondary purpose is to communicate Board procedures to the public. This is needed to ensure consistent operations and to provide an opportunity for the public to see how the parole and clemency process function.**
8. Will a public hearing be held on this proposed rule? Yes _____ No X
If yes, please give the date, time, and place of the public hearing:
9. When does the public comment period expire for permanent promulgation? **May 17, 2005**
10. What is the proposed effective date of this proposed rule? **June 1, 2005**
11. Do you expect this rule to be controversial? Yes _____ No X
If yes, please explain.
12. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known. **None.**

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT: Post Prison Transfer Board

DIVISION: Chairperson's Office

PERSON COMPLETING THIS STATEMENT: Sharon Lewis

TELEPHONE NO. (501) 682-3850 FAX NO. (501) 682-3860 E-MAIL

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To comply with Act 1104 of 1995, please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE: **Post Prison Transfer Board Manual**

1. Does this proposed, amended or repealed rule or regulation have a financial impact?
Yes ____ No X
2. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain.
3. If the purpose of this rule or regulation is to implement a federal rule or regulation, please give the incremental cost for implementing the regulation. Please indicate if the cost provided is the cost of the program.

Current Fiscal Year

General Revenue
Federal Funds
Cash Funds
Special Revenue
Other (identify)
Total

Next Fiscal Year

General Revenue
Federal Funds
Cash Funds
Special Revenue
Other (identify)
Total

4. What is the total estimated cost by fiscal year to any party subject to the proposed, amended or repealed rule or regulation? Identify the party subject to the proposed regulation, and explain how they are affected. **This rule does not impose any expenses on the public.**

Current Fiscal Year

None

Next Fiscal Year

None

5. What is the total estimated cost by fiscal year to the agency to implement this regulation?

Current Fiscal Year

None

Next Fiscal Year

None